

STATE OF VERMONT  
PUBLIC SERVICE BOARD

CPG No. 946-CM

Petition of WiMacTel, Inc., for a certificate of public )  
good to operate as a provider of commercial mobile )  
radio services in Vermont )

Order entered: 11/22/2011

**I. INTRODUCTION**

WiMacTel, Inc. ("WiMacTel" or "Company"), requests issuance of a certificate of public good ("CPG"), pursuant to 30 V.S.A. § 231 and the Vermont Public Service Board's ("Board") Order in Docket No. 5808, to provide commercial mobile radio service ("CMRS") in Vermont. In this Order, the Board concludes that WiMacTel should be issued a CPG as requested to allow the Company to begin operating as a commercial mobile radio carrier within the state.

**II. PROCEDURAL HISTORY**

On October 18, 2011, WiMacTel, pursuant to 30 V.S.A. § 231, the provisions outlined in Docket No. 5808, and the rules and regulations of the Board, filed a Commercial Mobile Radio Service Provider Registration Form ("Registration Form") seeking a CPG to offer CMRS services in the State of Vermont. On November 15, 2011, the Vermont Department of Public Service ("Department") filed a letter with the Board in which it recommended that a CPG be granted without the need for investigation or hearings. The Board has reviewed the petition and accompanying documents and agrees that a CPG should be issued without hearing. As a result, newspaper publication is not required prior to issuance of the CPG. 30 V.S.A. §§ 102(a), 231(a).

Based upon the Registration Form and accompanying documents, the Board makes the following findings.

### **III. FINDINGS**

1. WiMacTel, headquartered at 2225 East Bayshore Road, Suite 200, Palo Alto, CA 94303, will provide commercial mobile radio services in Vermont in accordance with its license issued by the Federal Communications Commission. Registration Form at 1.
2. National Registered Agents, Inc., 141 Peaked Mountain Road, Townshend, VT 05353, is WiMacTel's registered agent in Vermont. Registration Form at 2.
3. WiMacTel has all the necessary authority to transact business in Vermont. WiMacTel is incorporated in Delaware and was granted a Certificate of Authority by the Vermont Secretary of State on June 4, 2010. Registration Form at Attachment.

### **IV. DISCUSSION**

Pursuant to 30 V.S.A. §§ 102 and 231, all companies intending to offer telecommunications services in Vermont are required to obtain a CPG by the Board.<sup>1</sup> For CMRS providers, the Board has simplified the CPG application process due to federal preemption. The registration/identification process involves no substantial Board review nor does it condition the entry into Vermont's telecommunications market, in order to conform with preemption provisions set forth in federal statute.<sup>2</sup>

The Board has generally held that CMRS should be subject to little regulation.<sup>3</sup> While we have no interest in unduly burdening CMRS providers, the provision of CMRS in Vermont raises numerous economic and consumer-protection issues. Consequently, we have adopted a registration mechanism that imposes minimal requirements upon CMRS providers, but which provides them with the notice of their duties as companies operating in the State of Vermont.

Because it is our understanding that CMRS providers no longer use tariffs, but rather "contract forms," a condition of certification in Vermont is that CMRS file an up-to-date contract form with the Board in order to keep it informed of the company's terms and conditions of service. We find this to be an acceptable practice and will deem a company to have met the tariff

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1. Section 102 applies for newly-formed Vermont corporations, while § 231 applies to all others.

2. *Id.*, 47 U.S.C. § 332(c)(3)(A).

3. Docket 5808, Order of 3/1/00.

filing requirement by providing the Board with the applicable contract forms containing all terms and conditions of service.

We also require CMRS providers to file for informational purposes any changes in its terms and conditions of service. If and when WiMacTel changes any other terms and conditions of service, it is WiMacTel's duty and responsibility to file notice of such changes at least 45 days prior to the effective date of the changes.

The Board also requires that all telecommunications providers offering prepaid calling services post a bond, payable to the Board, in an amount equal to their projected Vermont intrastate revenues from its prepaid calling services for the first 12 months of operation. The Board has imposed such a requirement because of its concern regarding the potential rights to consumers associated with payment in advance of receipt of service.

#### **V. ORDER**

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. Based on the above findings, discussion and conclusion, the provision of commercial mobile radio services by WiMacTel, Inc. ("WiMacTel"), will promote the general good of the State of Vermont, pursuant to the provisions of 30 V.S.A. § 231. A certificate of public good ("CPG") shall be issued to that effect, subject to the conditions contained in the CPG.

2. WiMacTel shall file a copy of its standard service contract with the Board within sixty (60) days of the date of this Order. WiMacTel shall provide the Board with all current terms and conditions of service through the regular submission of applicable contract forms forty-five (45) days in advance of implementation.

3. If WiMacTel at any time in the future proposes to offer prepaid calling services, it shall post a bond, payable to the Board, in an amount equivalent to its projected intrastate revenues from its prepaid calling service for the first twelve (12) months of operation.

4. WiMacTel is authorized to do business in the State of Vermont under the name WiMacTel, Inc. If WiMacTel conducts business in Vermont under any other name, it shall file a

notice of the new trade name with the Clerk of the Board and the Vermont Department of Public Service at least fifteen days before commencing business under the new trade name.<sup>4</sup>

5. WiMacTel shall contact the Vermont Department of Public Service and make arrangements for further filings containing company Annual Reports, and a copy of Gross Revenue Tax payments for calendar year ends on forms available from the Department.

Dated at Montpelier, Vermont, this 22<sup>nd</sup> day of November, 2011.

<u>s/James Volz</u>	)	
	)	PUBLIC SERVICE
	)	
<u>s/David C. Coen</u>	)	BOARD
	)	
	)	OF VERMONT
<u>s/John D. Burke</u>	)	

OFFICE OF THE CLERK

FILED: November 22, 2011

ATTEST: s/Susan M. Hudson  
Clerk of the Board

*Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)*

*Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.*

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4. For a corporate name change, see 11 V.S.A. § 4.01 and 30 V.S.A. § 231. Petitioner may wish to contact the Clerk of the Board for assistance.